IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ROKU, INC., Plaintiff, vs. WILDCAT LICENSING LLC, JEFFREY W. SALMON, and SOCKEYE LICENSING TX LLC, Defendants.	Civil Action No. **JURY TRIAL DEMANDED**

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff ROKU, Inc. ("ROKU") hereby alleges for its Complaint for Declaratory Judgment against Defendants Wildcat Licensing LLC, Jeffrey W. Salmon, and Sockeye Licensing TX LLC ("Defendants") that:

I. NATURE OF THE ACTION

1. This is an action for declaratory judgment that ROKU does not infringe any valid claim of United States Patent No. 8,135,342 ("the '342 Patent") or U.S. Patent No. 8,879,987 ("the '987 Patent") (collectively, the "Asserted Patents").

2. A true and correct copy of the '342 Patent is attached as Exhibit A.

3. A true and correct copy of the '987 Patent is attached as Exhibit B.

II. THE PARTIES

4. Plaintiff ROKU is a corporation organized and existing under the laws of Delaware, with a principal place of business located at 12980 Saratoga Avenue, Ste. D, Saratoga, CA 95070.

5. Upon information and belief, Defendant Wildcat Licensing LLC ("Wildcat") is a limited liability company formed under the laws of the State of Illinois. Wildcat can be served with process through its registered agent for service of process in Illinois, Jeffrey W. Salmon, 320 Wilmette Avenue, Glenview, Illinois 60025.

6. A true and correct copy of the Certificate of Good Standing and LLC File Detail Report from the Illinois Secretary of State's website for Wildcat is attached as Exhibit C. Wildcat's LLC File Detail Report from the Illinois Secretary of State's website shows Jeffrey W. Salmon as its agent and manager, with its principal office at 320 Wilmette Avenue, Glenview, Illinois 60025.

7. Upon information and belief, Defendant Jeffrey W. Salmon is a resident of Illinois, with an address of 320 Wilmette Avenue, Glenview, Illinois 60025, and can be served at that address.

8. Upon information and belief, Sockeye Licensing TX LLC ("Sockeye")[1] is a limited liability company formed under the laws of the State of Texas. Sockeye can be served with process through its registered agent for service of process in Texas, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201, or alternatively through its sole manager and member, Jeffery W. Salmon.

9. A true and correct copy of the Certificate of Formation for Sockeye is attached as Exhibit D. The Certificate of Formation for Sockeye lists Defendant Jeffery W. Salmon ("Salmon") as its sole manager and member, with an address of 320 Wilmette Avenue, Glenview, Illinois 60025.

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[1] Sockeye has only been included as a defendant in this declaratory judgment action to the extent it seeks to reestablish its rights to transact business in Texas and attempts to assert the '342 and '987 Patents against ROKU or its customers.

III. JURISDICTION AND VENUE

10. This action is based on the patent laws of the United States, Title 35 of the United States Code, § 1 *et seq.*, with a specific remedy sought under the Federal Declaratory Judgments Act, 28 U.S.C. §§ 2201 and 2202.

11. An actual, substantial, and continuing justiciable controversy exits between ROKU and Defendants that requires a declaration of rights by this Court. As set forth in the paragraphs herein, an actual controversy exists between ROKU and the Defendants with respect to the infringement and scope of the '342 and '987 Patents.

12. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201 and 2202.

13. This Court has personal jurisdiction over Wildcat because Wildcat is an Illinois limited liability company, and conducts business from this district.

14. This Court has personal jurisdiction over Salmon because he is the sole manager and member of Sockeye and pursuant to Texas Tax Code § 171.255, Salmon is personally liable for the debts and liabilities of Sockeye because Sockeye has forfeited its right to transact business and to sue and defend actions in the courts of the State of Texas and because Salmon is an Illinois resident.

15. This Court has personal jurisdiction over Sockeye because, as discussed below, Sockeye has forfeited its right to transact business in Texas, and its sole member and manager, Jeffrey W. Salmon, resides in Glenview, Illinois, and conducts business and directs litigation of the Asserted Patents from this district.

16. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400.

IV. FACTUAL BACKGROUND

17. On December 13, 2012, Defendant Wildcat was formed as an Illinois limited liability company, naming Defendant Salmon as its registered agent and sole manager.

18. On May 12, 2014, Defendant Sockeye was formed as a Texas limited liability company, naming Defendant Salmon as its sole manager.

19. Pursuant to Texas Tax Code § 171.202, Sockeye failed to file its annual report and pay any franchise taxes due by May 15, 2015 as required by the Comptroller of the State of Texas. Upon information and belief, Sockeye did not respond within forty-five days from the mailing of the notice of forfeiture sent by the Comptroller on or about May 22, 2015.

20. Pursuant to Texas Tax Code §171.2515, the Comptroller of the State of Texas shall forfeit the right of a taxable entity, such as Sockeye, to transact business in Texas, in accordance with the procedures for forfeiture set forth in Texas Tax Code §§ 171.251 *et seq.* Upon information and belief, the Comptroller forfeited Sockeye's right to transact business in the State of Texas, and to sue or defend in any court in the State of Texas, on or about July 6, 2015.

21. Upon information and belief, because Sockeye forfeited its privileges to transact business and sue and defend itself in the courts of the State of Texas, by failing to file its annual report with the Comptroller and further by failing to pay its franchise tax liability, its management, Defendant Salmon, is now personally liable for the debts and liabilities of Sockeye.

22. On July 24, 2015, an assignment agreement purporting to assign all the rights, title and interest in and to the '342 and '987 Patents was executed by Zamboola LLC as assignor and Wildcat as assignee. This assignment agreement, attached as Exhibit E, was recorded by the U.S. Patent and Trademark Office on July 27, 2015 at Reel 036188, Frame 0599.

23. On August 19, 2015, an assignment agreement purporting to assign all the rights, title and interest in and to the '342 and '987 Patents was executed by Wildcat as assignor and

Sockeye as assignee. This assignment agreement, attached as Exhibit F, was recorded by the U.S. Patent and Trademark Office on October 1, 2015 at Reel 036703, Frame 0022.

24. Upon information and belief, Sockeye's right to transact business in Texas was forfeited at the time that Wildcat attempted to assign its interest in the '342 and '987 Patents to Sockeye, rendering the purported assignment of the '342 and '987 Patents to Sockeye null and void. Accordingly, all right, title and interest in and to the '342 and '987 Patents is owned by Wildcat.

25. On October 5, 2015, Sockeye filed an action against ROKU for patent infringement of the '342 and '987 Patents in Case No. 2:15-cv-01608 in the Eastern District of Texas ("the EDTX Action"). In its Complaint, Sockeye accused the alleged Miracast technology in the ROKU Streaming Stick of infringement.

26. Upon information and belief, Sockeye's right to transact business, and to sue and defend suits in the courts of the State of Texas, was forfeited in accordance with Texas law at the time it sued ROKU for patent infringement in the Eastern District of Texas on October 5, 2015. Attached as Exhibit G is a true and correct copy of a screen print of Sockeye's Franchise Tax Account Status, showing it is in forfeiture.[2] Therefore, Sockeye did not have capacity to file an action against ROKU in the Eastern District of Texas. Additionally, because the attempted assignment of the '342 and '987 Patents to Sockeye was null and void, Sockeye did not have standing to sue ROKU for patent infringement.

27. On October 26, 2015, Sockeye filed a motion to voluntarily dismiss without prejudice the EDTX Action.

[2] Plaintiff will amend Exhibit G when official copies are obtained from the State of Texas.

COUNT I
NON-INFRINGEMENT OF U.S. PATENT 8,135,342

28. ROKU incorporates by reference the allegations contained in paragraphs 1 through 27 of this Complaint as though fully set forth herein.

29. Defendants have alleged that ROKU directly and indirectly infringes one or more claims of the '342 Patent and that ROKU's customers directly infringe the '342 Patent through operation of the accused ROKU products.

30. ROKU asserts that ROKU and ROKU's customers have not and do not directly or indirectly infringe any claim of the '342 Patent, either literally or under the doctrine of equivalents.

31. Therefore, there exists a substantial controversy between ROKU and Defendants, the parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment that neither ROKU nor its customers have directly or indirectly infringed any claim of the '342 Patent.

32. An actual and justiciable controversy exists regarding the alleged infringement of the '342 Patent by ROKU and its customers. ROKU accordingly requests a judicial determination of its rights, duties, and obligations with regard to the '342 Patent.

COUNT II
NON-INFRINGEMENT OF U.S. PATENT 8,879,987

33. ROKU incorporates by reference the allegations contained in paragraphs 1 through 32 of this Complaint as though fully set forth herein.

34. Defendants have alleged that ROKU directly and indirectly infringes one or more claims of the '987 Patent, and that ROKU's customers directly infringe the '987 Patent through operation of the accused ROKU products.

35. ROKU asserts that ROKU and ROKU's customers have not and do not directly or indirectly infringe any claim of the '987 Patent, either literally or under the doctrine of equivalents.

36. Therefore, there exists a substantial controversy between ROKU and Defendants, the parties having adverse legal interest, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment that neither ROKU nor its customers have directly or indirectly infringed any claim of the 987 Patent.

37. An actual and justiciable controversy exists regarding the alleged infringement of the '987 Patent by ROKU and its customers. ROKU accordingly requests a judicial determination of its rights, duties, and obligations with regard to the '987 Patent.

PRAYER FOR RELIEF

WHEREFORE, ROKU prays for a declaratory judgment against Defendants as follows:

A. A declaration that neither ROKU nor ROKU's customers directly or indirectly infringe any claim of the '342 Patent;

B. A declaration that neither ROKU nor ROKU's customers directly or indirectly infringe any claim of the '987 Patent;

C. A declaration that ROKU's case against Defendants is an exceptional case within the meaning of 35 U.S.C. § 285, entitling ROKU to an award of its reasonable attorneys' fees, expenses and costs incurred in this action; and

D. Such other and further relief, in law or in equity, as the Court deems just.

JURY TRIAL DEMANDED

ROKU demands a trial by jury as to all issues and causes of action so triable herein, pursuant to Federal Rule of Civil Procedure 38.

Respectfully submitted,

ROPES & GRAY LLP

Dated: October 27, 2015

/s/ Richard T. McCaulley, Jr.

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